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April 21, 2017

***Via Certified Return Receipt Requested***

Regional Freedom of Information Officer  
U.S. EPA, Region 10  
Office of Ecosystems, Tribal and Public Affairs  
1200 6th Avenue ETPA-124  
Seattle, Washington 98101

**Re: THIS IS A FREEDOM OF INFORMATION ACT REQUEST**

Dear FOIA Officer:

This is a request for documents pursuant to the Freedom of Information Act, 5 U.S.C. § 552 and 40 C.F.R. Part 2, made on behalf of Snake River Waterkeeper, Inc ("SRW"). SRW is a non-profit, 501(c)(3), environmental organization that works through advocacy and education with the mission of applying science and law to protect, restore, and sustain waters of the Snake River Basin. SRW's mailing address is 2123 N. 16<sup>th</sup> St., Boise, Idaho, 83702. SRW does not intend to sell or otherwise make a profit from any documents disclosed in connection with this request, and does not intend to use disclosed information for commercial purposes.

I. FOIA Requests.

- A. Please provide copies of all current National Pollutant Discharge Elimination System ("NPDES") permits, and all Discharge Monitoring Reports received by EPA since January 1, 2012, for all federal, state, and private fish hatcheries located in the State of Idaho. SRW would prefer to receive these documents in electronic format if at all possible.
- B. Additionally, please make available for inspection and copying all NPDES permit files for all federal, state, and private fish hatcheries located in the State of Idaho. SRW would like an opportunity to come to EPA's offices to review and obtain copies of selected files.

If you have documents that meet the terms of this request but believe they are not disclosable, please provide a list of such documents and an explanation of any such determination on your part. Also, please indicate if and where you have redacted any information from disclosed documents and/or if you do not have any of the information or documents requested.

## II. Fee Waiver Request.

Because SRW is a non-profit, public interest organization, I hereby request a waiver of any fees associated with this request. The FOIA requires agencies to waive fees associated with a request for information if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. *See* 5 U.S.C. §552(a)(4)(A)(iii). The fee waiver provisions of FOIA are to be liberally construed and applied. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). As discussed in the proceeding paragraphs, a fee waiver is appropriate because disclosure of the requested information and documents is in the public interest: it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of SRW.

First, this request seeks documents and information that directly concern identifiable operations and activities of the federal government. *See* 40 C.F.R. § 2.107(l)(2)(i). The requested documents relate to how the federal government implements and enforces the NPDES permitting system for hatcheries in Idaho. For responsive documents or information developed outside of the government, responsive documents likely inform how EPA Region 10 is carrying out its regulatory, enforcement, and other activities. Clearly, the requested documents and information concern identifiable operations and activities of the federal government.

Second, disclosure of the requested documents and information will contribute to, and significantly further, public understanding by informing a reasonably broad audience of persons interested in the subject. So far as SRW can tell, requested documents are not already in the public domain and so disclosure will necessarily lead to better understanding of EPA Region 10's implementation and enforcement of the NPDES system. Given the complexity of the legal issues and the scarcity of publicly available information, the public's understanding of government operations will be significantly greater after disclosure of the requested documents.

Indeed, SRW has the ability and intention to disseminate disclosed documents and information to large segments of the public. SRW is likely to communicate disclosed information to its members through websites, newsletters, and action alerts. SRW communicates regularly with its members, who live and recreate throughout the Pacific Northwest. Additionally, SRW maintains a website through which it regularly communicates information to interested citizens and the public. SRW intends to review and publicize some of the disclosed information through its website—the regularly-updated home page, as well as the “Threats” and “Projects” pages.

SRW also intends to publicize some of the disclosed information through public testimony and its work with state and federal agencies. SRW regularly participates in public processes involving environmental issues and expects to use disclosed information to educate agency officials and others about legal requirements of NPDES implementation and permit enforcement. SRW also fully intends to communicate disclosed information to its friends in the non-profit community and doing so will enhance the level of public understanding about the relevant government operations. For these reasons,

disclosing the requested documents will significantly further public understanding of SRW's activities by helping inform a reasonably broad audience of interested persons.

Finally, disclosure is not primarily in the commercial interest of SRW. As a non-profit organization, SRW has no commercial interest that could be furthered by disclosure. SRW does not intend to sell the requested documents once obtained, nor does SRW expect to disseminate the information in any way that would directly generate funds for SRW. Instead, SRW seeks the information to help educate the public and interested non-profit organizations. Even if SRW had a commercial interest, disclosure is not primarily in that interest; rather, SRW's primary interest in the requested documents is to allow it to evaluate and better understand EPA Region 10's NPDES permit implementation and enforcement activities.

Accordingly, please waive all fees associated with the search, review, and production of documents and information responsive to this request. Should you decide a fee waiver is inappropriate for all responsive documents, please grant the waiver for each document meeting the applicable criteria. If you deny the fee waiver in whole or in part, please contact me with an estimate of likely fees before incurring any charges.

Please contact me if you have any questions about this request, particularly about the scope or identity of the documents requested. You can reach me at the email address or phone number in the letterhead or at 615 Second Avenue, Suite 360, Seattle, Washington 98104. Thank you for your assistance with this matter.

Kampmeier & Knutsen, PLLC



By: \_\_\_\_\_  
Paul A. Kampmeier

Attorneys for Snake River Waterkeeper